

**Remarks**

The Office Action mailed September 5, 2006, has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1-16 and 18-20 are now pending in this application. Claim 11 stands allowed. Claims 1-4, 7, 12, 14, and 17 stand rejected. Claims 5, 6, 8-10, 13, 15, 16, and 18-20 stand objected to. Claim 7 is amended. Claim 17 is cancelled. No new matter has been added.

The rejection of Claims 1, 3, 4, 7, 12, 14, and 17 under 35 U.S.C. § 103(a) as being unpatentable over Elliot et al (US PG PUB 2002/0064149) ("Elliot") in view of Woram (US Pat. 6,728,262)(Non-patent literature, PC EXPO 99, (Non-patent literature) and IEEE Standard Definition, Specification and Analysis of Systems Used for Supervisory Control, Data Acquisition, and Automatic Control (IEEE Specification)) is respectfully traversed.

Elliot describes a method for media communication using a hybrid network for telephony services (abstract, claims 1-6). One network element used in a telecommunications network is an Ethernet switch ([1186]). Systems in the hybrid network use an Ethernet Local Area Network (LAN) 280 to provide a variety of services for call processing ([0526], [1829], [1830]). In other embodiments, a Wide Area Network (WAN) is used to process calls (Figures 15, 16, 18, 29; [1039], [2026], [2028], [2032]).

Woram describes a system for integrating management of both network status information and process control data (col. 4, lines 15-30). Network status data can be communicated to an Ethernet network 13 data interface using a protocol such as Remote Monitoring (RMON) (col. 4, lines 31-40; col. 4 lines 64-67). An Ethernet switch/hub 12 is part of the network 13 (col. 7, lines 30-35). The switch/hub 12 directs data to a Network Interface Card (NIC) 11 (col. 7, lines 42-45). The network 13 communicates the network and process data to an integrated HMI database/server 402 to be displayed on management workstation 41 (col. 9, lines 42-45; col. 9, line 54 – col. 10, line 9).

PC EXPO 99 describes an industrial PC that operates in the temperature range of 32 to 140 Fahrenheit (0 to 60 Celsius) (p. 10).

IEEE Specification describes the environment in which control and data acquisition equipment should operate (p. 35). Some groups of equipment should operate in environmental conditions where the humidity operating range is 10 percent relative humidity to 90 percent relative humidity without condensation (p. 36).

Applicants respectfully submit that the Section 103 rejection of the presently pending claims is not a proper rejection. As described above Elliot does not describe nor suggest an Ethernet switch for use in a non-office environment as recited in Claim 1. Applicants respectfully submit that also considering Woram, PC EXPO 99, and IEEE Specification does not overcome the deficiencies described above and therefore none of Elliot, Woram, PC EXPO 99, and IEEE Specification considered alone or in combination, describes or suggests the claimed combination.

Claim 1 recites an Ethernet switch for use in a non-office environment, the Ethernet switch comprising “a plurality of ports, said switch configured to be operable within a temperature range of at least between approximately 0° C and approximately 60° C, said switch further configured to be operable within a non-condensing humidity range of at least between approximately 10% and approximately 95%, said switch further configured to support at least one of a Virtual Local Area Network (VLAN), a Quality of Service (QoS), a Remote Monitoring (RMON), and a Spanning Tree, wherein said switch configures the VLAN by operating within the temperature range, and wherein said switch is further configured to transfer data between a plurality of devices.”

None of Elliot, Woram, PC EXPO 99, and IEEE Specification, considerable alone or in combination, describe or suggest an Ethernet switch for use in a non-office environment as recited in Claim 1. Specifically, none of Elliot, Woram, PC EXPO 99, and IEEE Specification, considered alone or in combination, describe nor suggest a switch configured to support at least one of a VLAN, a QoS, a RMON, and a Spanning Tree, where the switch

configures the VLAN by operating within the temperature range. Rather, Elliot describes a method for media communication using a hybrid network for telephony services. Woram describes a system for integrating management of both network status information and process control data using an Ethernet network. PC EXPO 99 describes an industrial PC that operates in the temperature range of 32 to 140 Fahrenheit (0 to 60 Celsius). IEEE Specification describes groups of equipment that should operate in environmental conditions where the humidity operating range is 10 percent relative humidity to 90 percent relative humidity without condensation. A description in Elliot of using a LAN or a WAN to communicate information does not teach a VLAN. A LAN or WAN does not teach a VLAN. A description in Woram of an Ethernet switch directing data to a NIC does not teach a VLAN. Accordingly, none of Elliot, Woram, PC EXPO 99, and IEEE Specification, considered alone or in combination, describe or suggest the switch configures the VLAN by operating within the temperature range. For the reasons set forth above, Claim 1 is submitted to be patentable over Elliot in view of Woram, PC EXPO 99, and IEEE Specification.

Claims 3, 4 and 7 depend from independent Claim 1. When the recitations of Claims 3, 4 and 7 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 3, 4 and 7 likewise are patentable over Elliot in view of Woram, PC EXPO 99, and IEEE Specification.

Claim 12 recites an Ethernet network comprising, “a first switch configured to be used in a non-office environment . . . and a plurality of user devices operationally coupled to said first switch such that said first switch transfers data from at least one of said devices to a different one of said devices, said first switch configured to . . . be operable within a temperature range of at least between approximately 0° C and approximately 60°C . . . be operable within a non-condensing humidity range of at least between approximately 10% and approximately 95% . . . and support at least one of a Virtual Local Area Network (VLAN), a Quality of Service (QoS), a Remote Monitoring (RMON), and a Spanning Tree, wherein said first switch configures the VLAN by operating within the temperature range.”

None of Elliot, Woram, PC EXPO 99, and IEEE Specification, considerable alone or in combination, describe or suggest an Ethernet network as recited in Claim 12. Specifically, none of Elliot, Woram, PC EXPO 99, and IEEE Specification, considered alone or in combination, describe or suggest a first switch configured to support at least one of a VLAN, a QoS, a RMON, and a Spanning Tree, where the first switch configures the VLAN by operating within the temperature range. Rather, Elliot describes a method for media communication using a hybrid network for telephony services. Woram describes a system for integrating management of both network status information and process control data using an Ethernet network. PC EXPO 99 describes an industrial PC that operates in the temperature range of 32 to 140 Fahrenheit (0 to 60 Celsius). IEEE Specification describes groups of equipment that should operate in environmental conditions where the humidity operating range is 10 percent relative humidity to 90 percent relative humidity without condensation. A description in Elliot of using a LAN or a WAN to communicate information does not teach a VLAN. A LAN or WAN does not teach a VLAN. A description in Woram of an Ethernet switch directing data to a NIC does not teach a VLAN. Accordingly, none of Elliot, Woram, PC EXPO 99, and IEEE Specification, considered alone or in combination, describe or suggest the first switch configures the VLAN by operating within the temperature range. For the reasons set forth above, Claim 12 is submitted to be patentable over Elliot in view of Woram, PC EXPO 99, and IEEE Specification.

Claim 14 depends from independent Claim 12. When the recitations of Claim 14 is considered in combination with the recitations of Claim 12, Applicants submit that dependent Claim 14 likewise is patentable over Elliot in view of Woram, PC EXPO 99, and IEEE Specification.

Claim 17 is cancelled.

Accordingly, for at least the reasons set forth above, Applicants submit that Claims 1, 4, 7, 12, 14, and 17 are patentable over Elliot in view of Woram, PC EXPO 99, and IEEE Specification.

The rejection of Claim 2 under 35 U.S.C. § 103(a) as being unpatentable over Elliot et al (US PG PUB 2002/0064149) (“Elliot”) in view of Woram (US Pat. 6,728,262)(Non-patent literature, PC EXPO 99, (Non-patent literature) and IEEE Standard Definition, Specification and Analysis of Systems Used for Supervisory Control, Data Acquisition, and Automatic Control (IEEE Specification) as applied to Claims 1, 3, 4, 7, 12, 14 and 17 above, and further in view of 3COM SuperStack II Switch 9300 (Non-patent literature)(“3COM”) is respectfully traversed.

Elliot, Woram, PC EXPO 99, and IEEE Specification are described above. 3COM describes the 3COM SuperStack II Switch 9300 and how to install and use it (p. 7). The Switch 9300 units are stacked on a table top, free standing stack, or in a rack (p. 20, 23).

Claim 2 depends from independent Claim 1, which is recited above.

None of Elliot, Woram, PC EXPO 99, IEEE Specification and 3COM, considerable alone or in combination, describe or suggest an Ethernet switch for use in a non-office environment as recited in Claim 1. Specifically, none of Elliot, Woram, PC EXPO 99, IEEE Specification and 3COM, considered alone or in combination, describe nor suggest a switch configured to support at least one of a VLAN, a QoS, a RMON, and a Spanning Tree, where the switch configures the VLAN by operating within the temperature range. Rather, Elliot describes a method for media communication using a hybrid network for telephony services. Woram describes a system for integrating management of both network status information and process control data using an Ethernet network. PC EXPO 99 describes an industrial PC that operates in the temperature range of 32 to 140 Fahrenheit (0 to 60 Celsius). IEEE Specification describes groups of equipment that should operate in environmental conditions where the humidity operating range is 10 percent relative humidity to 90 percent relative humidity without condensation. 3COM describes Switch 9300 units stacked on a table top, free standing stack, or in a rack. A description in Elliot of using a LAN or a WAN to communicate information does not teach a VLAN. A LAN or WAN is not a VLAN. A description in Woram of an Ethernet switch directing data to a NIC does not teach a switch supporting a VLAN. Accordingly, none of Elliot, Woram, PC EXPO 99, IEEE Specification

and 3COM, alone or in combination, describe or suggest the switch configures the VLAN by operating within the temperature range. For the reasons set forth above, Claim 1 is submitted to be patentable over Elliot in view of Woram, PC EXPO 99, IEEE Specification, and 3COM.

When the recitations of Claim 2 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claim 2 likewise is patentable over Elliot in view of Woram, PC EXPO 99, IEEE Specification, and 3COM.

Moreover, Applicants respectfully submit that the Section 103 rejections of Claims 1-4, 7, 12, 14, and 17 are not proper rejections. As is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. None of Elliot, Woram, PC EXPO 99, IEEE Specification and 3COM, considered alone or in combination, describe or suggest the claimed combination. Furthermore, in contrast to the assertion within the Office Action, Applicants respectfully submit that it would not be obvious to one skilled in the art to combine Elliot with Woram, or with PC EXPO 99, or with IEEE Specification, or with 3COM because there is no motivation to combine the references suggested in the cited art itself.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levensgood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants' disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion or motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

Furthermore, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is

rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejections are based on a combination of teachings selected from multiple patents in an attempt to arrive at the claimed invention. Specifically, Elliot teaches a method for media communication using a hybrid network for telephony services. Woram teaches a system for integrating management of both network status information and process control data using an Ethernet network. PC EXPO 99 teaches an industrial PC that operates in the temperature range of 32 to 140 Fahrenheit (0 to 60 Celsius). IEEE Specification teaches groups of equipment that should operate in environmental conditions where the humidity operating range is 10 percent relative humidity to 90 percent relative humidity without condensation, and 3COM teaches Switch 9300 units stacked on a table top, free standing stack, or in a rack. Since there is no teaching nor suggestion in the cited art for the combination, the Section 103 rejections appear to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicants request that the Section 103 rejection of Claims 1-4, 7, 12, 14, and 17 be withdrawn.

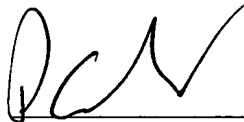
For at least the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 1-4, 7, 12, 14, and 17 be withdrawn.

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In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'P. Shipley', written over a horizontal line.

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